Supreme Court, U. S.
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MICHAEL RODAK, JR., CLERK

In the Supreme Court of the United States

OCTOBER TERM, 1974

No. 73-1452

STATE OF OREGON,

Petitioner,

v.

WILLIAM ROBERT HASS,

Respondent.

On Writ of Certiorari to the Supreme Court of the State of Oregon

PETITIONER'S REPLY BRIEF

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PETITIONER'S REPLY BRIEF

REPLY TO "ARGUMENT OF QUESTION ONE"

Nothing in the opinion of the Oregon supreme court herein supports respondent's suggestion that the present case is decided on state constitutional grounds. The very fact that the majority opinion finds it necessary to distinguish this case from *Harris v. New York*, 401 U.S. 222 (1971), demonstrates that it is not. Moreover, the prior Oregon cases relied upon by the Oregon supreme court to sustain its holding in this case—*State v. Brewton*, 247 Or. 241, 422 P.2d 581, cert. denied 387 U.S. 943 (1967), and *State v. Neely*, 239 Or. 487, 395 P.2d 557, 398 P.2d 482 (1965)—were, themselves, not predicated on state constitutional grounds, but were attempts to predict how this Court would decide the questions presented therein as matters of federal law. When the

Oregon supreme court bases a decision on state constitutional grounds, it does so expressly. See, *e.g.*, *State v. Brown*, 262 Or. 442, 453, 497 P.2d 1191, 1196 (1972) (interpreting double-jeopardy clause of Oregon constitution). *Cf. State v. Florance*, 99 Or. Adv. Sh. 1997, 2018, — Or. —, 527 P.2d 1202, 1213 (1974) (dissenting opinion).

REPLY TO "ARGUMENT OF QUESTION TWO"

In a case like the one at bar, the right of a State to seek review of federal constitutional questions decided adversely to it by its highest appellate court is not open to question. See, *e.g.*, *California v. Green*, 399 U.S. 149, 153 (1970).

REPLY TO "ARGUMENT OF QUESTION THREE"

Petitioner stands upon the arguments advanced in its opening brief.

CONCLUSION

For the above reasons, as well as those previously stated, the judgment of the Supreme Court of the State of Oregon should be reversed and this cause remanded for the proceedings necessary to cause the judgment of the trial court to be affirmed.

Respectfully submitted,

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January 1975